IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 21771 of 1997

Between:

1 Ankam Mallikharjuna Rao S/o Khandeswara Swamy
R/o Mandapeta, The Mandapeta Weaver's Co.operative

Production & Sale Society Ltd.,No.B.401, Mandapeta.
2 Uppu Nagaratnam S/o Subraymanyam
Adivarapupeta, Sri Sivabalayogi Maharaj Handloom Wavers

Coop., Production & Sale Society,Adivarampupeta, East

Godavari district.
3 Muppana Veera Venkata Namassivaya S/o Vishwapandham
Adivarapupeta, Sri Sivabalayogi Maharaj Handloom Wavers

Coop., Production & Sale Society,Adivarampupeta, East

Godavari district.
4 Allaka Satyavathi S/o Adinaryana
Adivarapupeta, Sri Sivabalayogi Maharaj Handloom Wavers

Coop., Production & Sale Society,Adivarampupeta, East

Godavari district.
5 Pitchika Veera Subrahmanyam S/o Basavarju
Adivarapupeta, Sri Sivabalayogi Maharaj Handloom Wavers

Coop., Production & Sale Society,Adivarampupeta, East Godavari

district.
6 Pitchika Nageswara Rao S/o Venkatraju
Adivarapupeta, Sri Sivabalayogi Maharaj Handloom Wavers

Coop., Production & Sale Society,Adivarampupeta, East Godavari

district.
7 Inumarthi Veerabhadra Rao S/o Radhakrishna
Sri Bhimeswara Handloom Wavers Coop.,
Production & Sale Society,Adivarampupeta, East Godavari

district.
8 Nakkina Satyavathi W/o Mallikarjunudu
Sri Bhimeswara Handloom Wavers Coop.,
Production & Sale Society,Adivarampupeta, East Godavari

district.
9 Pitchika Krishnamaraju S/o Adinarayana
Sri Bhimeswara Handloom Wavers Coop.,
Production & Sale Society,Adivarampupeta, East Godavari

district.
10 Nulu Venkatalaxmi S/o Satyanaryana
Sri Bhimeswara Handloom Wavers Coop.,
Production & Sale Society,Adivarampupeta, East Godavari

district.
11 Uppu Srinivasu S/o Bullebbai
Sri Bhimeswara Handloom Wavers Coop.,
Production & Sale Society,Adivarampupeta, East Godavari

district.
12 Venna Krsina Rao S/o Sooranna
Addampalli Sri Malleswara Handloom Wavers Coop.,
Production & Sale Society,Addampalli, East Godavari district.
13 Bese Subrahmanyam S/o Sathiyya
Addampalli Sri Malleswara Handloom Wavers Coop.,
Production & Sale Society,Addampalli, East Godavari district.
14 Vesa Satyababu S/o Satyanarayana
Addampalli Sri Malleswara Handloom Wavers Coop.,
Production & Sale Society,Addampalli, East Godavari district.
15 Venna Venkata Laxmi W/o Subbarao
Addampalli Sri Malleswara Handloom Wavers Coop.,
Production & Sale Society,Addampalli, East Godavari district.
16 Doddipatla Satyanarayana S/o Sommanna
Addampalli Sri Malleswara Handloom Wavers Coop.,
Production & Sale Society,Addampalli, East Godavari district.
17 Dora Sarada Devi W/o Thrimurtulu
Mandapeta, The Mandapeta Wavers Coop.,
Production & Sale Society Ltd., No.B401 Mandepeta.
18 Dora Thirumurtulu s/o Mallayya
Mandapeta, The Mandapeta Wavers Coop.,
Production & Sale Society Ltd., No.B401 Mandepeta.
19 Asapu Mallawsari W/o Pullarao
Mandapeta, The Mandapeta Wavers Coop.,
Production & Sale Society Ltd., No.B401 Mandepeta.
20 Reddy Satyavati, W/o Pullayya
Mandapeta, The Mandapeta Wavers Coop.,
Production & Sale Society Ltd., No.B401 Mandepeta,E.G.District.

... PETITIONERS

AND

1 Director of Handlooms and Textiles Government of Andhra Pradesh
4th Floor, Burgula Ramakrishna Rao Bhavan,
Tank Bund Road, Hyderabad.
2 Assistant Director Handlooms And Textiles,Gandhinagar,
Kakinada, East Godavari District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate order, direction or an writ particularly one in the nature of Writ of Mandamus declaring that the respondents have no jurisdiction to delete the names of the petitioners form the membership of the respective handloom weaver co-operative societies on the pleas of not owning individual looms.

Counsel for the Petitioners: MR.KOKA RAGHAVA RAO
Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus declaring that the respondents have no jurisdiction to delete the names of the petitioners from the membership of the respective handloom weaver cooperative societies on the plea of not owning individual looms.

2. When the matter is taken up for hearing, it is submitted by the learned counsel for the petitioners and conceded by the learned Government Pleader for Industries and Commerce that the subject matter of this writ petition is squarely covered by a judgment of this Court dated 10.09.1998 in W.P.No.8938 of 1997 and batch, wherein this Court considered similar issue and allowed the same with the following observations:

> "…….. Further, the concerned authority appears to have proceeded on the assumption that owning of a loom is necessary criterion for eligibility for membership of Weavers
> Co-operative Society. But a reading of Explanation I (ii) of Section 19 of the A.P. Co-operative Societies Act, 1964, in which the term 'Weaver' has been defined, would make it clear that weaver is one who attends to operations of

weaving of cloth or fabric or product on the loom whether such operation is carried on in private dwelling house or any other place and is dependant on weaving as profession and income thereof. Thus, owning of a loom is not an essential condition for admission of a weaver as a member. What is required is that he should be dependant on weaving as his profession and source of income and whether he carries on weaving in a private dwelling house or any other place ownership of a loom is not necessary. On this ground also, the impugned order which appears to proceed on the assumption that owning of a loom is a condition precedent for a membership of the Society is bad. At any rate, as it has been held that the principles of natural justice have been violated, the impugned orders are set aside. However, it is open to the respondents, if they are so advised, to conduct fresh enquiry after giving adequate opportunities to the petitioners to make their representations, if necessary, by giving an opportunity of personal hearing and adduce evidence.

In the result, the writ petitions are allowed and the impugned orders are set aside. No costs."

In the circumstances, following the aforementioned judgment, this writ petition is also allowed for the same and similar reasons. No costs.

N.V. RAMANA, J

March 21, 2005

MRR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this the twenty-first day of March Two thousand and five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copy to. –

1 *The Director of Handlooms and Textiles, Government of Andhra Pradesh*
4th Floor, Burgula Ramakrishna Rao Bhavan, Tank Bund Road, Hyderabad.
2 *Assistant Director Handlooms And Textiles,Gandhinagar,*
Kakinada, East Godavari District.

Two C.C. s to the G.P. for Industries & Commerce, High Court

Buildings, Hyderabad (OUT)

Two C.D. Copies.

The writ petition has been filed only when the show cause notice was issued against the petitioners that why membership of Handloom Weaver Cooperative Production and Sale Society Ltd., be not cancelled.

2. This Court, while admitting the writ petition in 1997, gave interim direction by order dated 11-09-1997 and it is still in operation.

3. Having heard the learned counsel for the parties, the writ petition is disposed of with a direction that petitioners will submit reply to the show cause notice within a period of nine weeks from today and thereafter the competent authority will pass appropriate orders in accordance with law, which will be duly intimated to the petitioners. Till decision is taken by the competent authority, interim order which is in operation shall continue to remain in operation.

4. In case the petitioners feel aggrieved against the final order to be passed by the competent authority, their remedy would be to challenge the said order in accordance with law and it would be open for them to challenge the said order on all available grounds including the one taken in the writ petition.

The writ petition is accordingly disposed of. No costs.

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N.V. RAMANA, J

March 21, 2005

MRR

ASSISTANT REGISTRAR

Copy to. –

1 *The Director of Handlooms and Textiles, Government of Andhra Pradesh*
4th Floor, Burgula Ramakrishna Rao Bhavan, Tank Bund Road, Hyderabad.
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ORDER:

This writ petition is filed seeking Mandamus declaring that the respondents have no jurisdiction to delete the names of the petitioners from the membership of the respective handloom weaver cooperative societies on the plea of not owning individual looms.

2. Petitioners, who claim that they belong to weaving community, and dependent on weaving of cloth on the looms, state that they joined the cooperative movement for mutual benefit and profit to improve their economic condition by using their individual weaving skill. In view of the codification by way of Andhra Pradesh Cooperative Societies Act, 1964, (for short 'the Act') petitioners state that, as they are eligible for membership, they joined as members of the weavers' cooperative societies decades ago and carrying on weaving. It is alleged that on the instructions of the first respondent, the Director of Handlooms, Hyderabad, the second respondent herein has deputed committees to inspect and submit reports relating to the members who have handloom weaving as their profession and whether such

member is residing within the jurisdiction of the Society and whether he owns a loom. It is stated that in pursuance of the said report, the Assistant Director of Handlooms and Textiles, Kakinada, East Godavari District, issued notices to the petitioners, under Section 21 (3) and Rule 20 of the A.P. Co-operative Societies Act, 1964 on the ground that the petitioners are not qualified to continue as members of the society and requested them to show cause why they should not be remanded from the membership of the Society within seven days from the date of receipt of that notice. Hence, the present writ petition.

3. This Court, while admitting the writ petition in 1997, granted interim direction by order dated 11-09-1997 and it is still in operation.

4. Respondents filed counter affidavit denying the allegations made. The relevant portion reads as under. -

> " It is submitted that the various schemes formulated and initiated by the Government for the benefit of the Handloom Weavers, are being implemented through the Handlooms Weavers Co-operative Societies. The implementation of schemes involves such of inflow of Governmental funds into the coffers of the societies and as such implementation shall be free of mis-use and mis-application. To obviate such occurance, it was proposed to undertake a survey regarding the genuineness of the membership, looms etc., connected with the working of societies. To establish the genuineness or otherwise of the memberships and looms, a survey has been conducted with the involvement of Governmental machinery with the relevant provisions of the A.P.C.S. Act 7 of 1964 and the rules framed thereunder. The result filtered out from the above exercise was that majority of the members do not own a loom and are not depending on weaving, which led to the issuance of a notice under the statute to streamline the implementation of the Governmental Schemes against mis-use and mis-application of funds. The petitioners challenged the said notice in question wherein their removal from membership of the society is contemplated in accordance with the provisions of the statute.
>
> It is submitted that the notice in question was issued to the petitioners giving them an opportunity to defend themselves against the proposed action, to meet the ends of natural justice. Unless final orders are passed there does not arise any cause of action for the petitioners to question the same in a Court of law."

5. Inasmuch as the notice, which was issued to the petitioners, is only a show cause notice, wherein the petitioners had been given an opportunity to defend themselves and the same cannot be found fault with. The petitioners are at liberty to submit their

explanation to the said show cause notice putting forth all their objections and the respondents are directed to consider the same and place the said explanation before the Society concerned for its consideration and pass appropriate orders thereon, in accordance with law.

The writ petition is accordingly disposed of. No order as to costs.

N.V. RAMANA, J

March 21, 2005

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

*Form-NIC-OGS/WP {**JPK**}*

21 (3)

Where any person, who is not eligible for being admitted as member has been admitted as member or where a member who is disqualified to continue as such under sub-section (1) is continued as member, he shall be removed, -

i. by the Registrar on his own motion or on a representation made to him by any member of the society or its federal society or its financing bank; or

ii. by the Committee of the Society:

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Provided that no member shall be removed under this sub-section unless he had an opportunity of making a representation against the proposed action and where the removal is sought to be made by the Committee, until the resolution of the Committee is approved by the Registrar. The order of the Registrar, or as the case may be, a copy of the resolution removing the member as approved by the Registrar, shall be communicated to such person on such communication, he shall be deemed to have ceased to be the member of the society.

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